



DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY

MINUTES OF THE SEPTEMBER 15, 2011 GENERAL MEETING

1. Call to Order

Chairman MacKay called the General Session to Order at approximately 9:04 a.m.

2. Roll Call

Present in Las Vegas: Commissioner Michael J. Kloberdanz, Commissioner Monica B Metz, Administrative Attorney James Day, Applications Manager Liz Babcock, Financial Analyst Yvonne Shelton, Financial Analyst Lidia Aronova, Senior Deputy Attorney General David Newton. Present in Reno: Chairman Andrew J. MacKay, Deputy Commissioner Marilyn Skibinski.

Chairman MacKay stated that during Item 4, Public Comment, comments will be limited to 5 minutes. Chairman MacKay expressed condolences on the loss of industry member Dann Collins and the victims of the recent shootings in Carson City. In recognition of these losses and the recent 10th anniversary of the events of September 11, 2001, the Chairman conducted a moment of silence.

3. Pledge of Allegiance

Chairman MacKay led a recital of the Pledge.

4. Public Comment:

None.

5. Approval of Agenda

Administrative Attorney James Day and Applications Manager Liz Babcock requested numerous changes. Attorney Day reported that recently filed written protests had been added to the supporting materials for the meeting. Approved as amended 3-0.

6. Approval of the Minutes of the August 11, 2011 Agenda Meeting

Commissioner Metz reported that she had inadvertently failed to review the minutes and would abstain from voting. Approved 2-0 with Commissioner Metz abstaining.

7. Briefings from the Commissioners

Commissioner Metz echoed the Chairman's comments regarding the loss of Dann Collins. Commissioner Metz also stated that she expects the model tow tariff to appear on the October Agenda. Chairman MacKay thanked Financial Analyst Yvonne Shelton and Applications Manager Liz Babcock for the extra efforts in assuring that a matter could remain on the Agenda for consideration, and noted that he will be reluctant to allow Staff to work such extensive extra hours in the future when

Applicants are late in providing supporting materials. The Chairman also thanked Administrative Attorney Day for his contributions.

8. Briefing from the Deputy Commissioner

Deputy Commissioner Marilyn Skibinski echoed the comments of Chairman MacKay with respect to Staff's contributions.

9. Report of Legal Counsel

Senior Deputy Attorney General David Newton reported the Attorney General's Opinion requested by the Authority should be completed before the October Agenda meeting, the opening brief for the Petition for Judicial review in the Déjà vu matter would be due at the end of September, and the court granted Judicial Review again in Omni matter.

APPLICATIONS FOR FULLY REGULATED CARRIERS

10. Docket No. 09-12007 The Application of Viva Las Vegas Tour & Travel, Inc. for a permit to operate as a contract motor carrier of passengers within the State of Nevada. (AJM)

This item was removed from the Agenda prior to consideration.

11. Docket No. 10-06031 The Application of Carevans Medical Transport Services, LLC for a certificate of public convenience and necessity (hereinafter, "CPCN") to provide non-emergency medical transportation within the State of Nevada. (MJK)

Commissioner Kloberdanz summarized the Application and recommended approval. Owner Steven LaTulippe was present and thanked the Authority and Staff for its consideration of the Application. Approved 3-0.

12. Docket No. 10-10018 The Application of Limousines of LV Parking, LLC for a permit to operate as a contract motor carrier of passengers within the State of Nevada. (AJM)

This item was removed from the Agenda prior to consideration.

13. Docket No. 10-11003 The Application of Move4Less, LLC for an expansion of operating authority under CPCN 3344, Sub 2. (MJK)

Items 13 and 17 were considered collectively. Commissioner Kloberdanz summarized the Applications and recommended approval. Transferor Applicant Avraham Cohen was present. Approved 3-0.

14. Docket No. 10-11016 The Application of Jacob Transportation Services, LLC d/b/a Executive Las Vegas for an expansion of operating authority under CPCN 1062, Sub 6. (MBM)

Former Interveners LVL and ALC were present through their legal counsel, Neal Tomlinson, Esq. General Manager Carol Jimmerson was present on behalf of the Applicant. Commissioner Metz summarized the Application and recommended approval, with five vehicles contingent upon the Applicant obtaining a renewed contract with McCarran International Airport and with an added voluntary condition proposed by Mr. Tomlinson and agreed to by the Applicant. Approved 3-0

15. Docket No. 10-11020 The Application of Cool Box Portable Equipment & Sales, LLC d/b/a Cool Box Portable Storage for a CPCN to provide transportation household goods within the State of Nevada. (AJM)

Chairman MacKay summarized the Application, indicated Staff recommended no hearing was necessary, and recommended approval. Approved 3-0

- 16. Docket No. 11-04020** The Application of Douglas Parking, LLC for an expansion of operating authority granted under Contract Carrier Permit MV 6144, Sub 1, to provide passenger transportation services pursuant to a contract with Nevada Properties 1, LLC d/b/a The Cosmopolitan Las Vegas. (AJM)
Attorney Kimberly Maxson-Rushton, Esq. was present on behalf of the Applicant. Chairman MacKay summarized the Application and recommended approval. Approved 3-0
- 17. Docket No. 11-06019** The Joint Application of Avraham Cohen to sell and transfer and of Moti Perez to purchase and acquire 40% of Move 4Less, LLC, a carrier authorized to provide transportation of household goods under CPCN 3344, Sub 2. Staff investigation concluded. (MJK)
Considered collectively with Item 13. Approved 3-0

FINANCIAL RATES AND TARIFF

- 18. Docket No. 10-05023-A** The Application of Fast Towing, Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 7161 Staff investigation concluded.
Items 18, 24 and 25 were considered collectively. Chairman MacKay acknowledged Las Vegas Metropolitan Police Department for their efforts regarding rates for the contract and summarized the proposed tariff rate modifications. A discussion ensued regarding auction preparation fees. Commissioner Metz suggested leave to modify the contract language after the model tow tariff is adopted. Application Manager Liz Babcock stated the Applications are bifurcated dockets to allow for additional compliance follow-up. Authority Staff recommended that all Metro calls be considered in the urban area until a map is defined. A discussion ensued as to the boundaries of the urban area. It was suggested that Clark County Urban Code 30.08.030, Map 10 be utilized for describing the “urban area.” Approved 3-0 with the noted modifications.
- 19. Docket No. 11-07024** The Application of AWG Ambassador, LLC d/b/a Ritz Transportation for approval of a tariff rate modification for charter limousine services conducted under CPCN 1089, Sub 2. Staff investigation concluded.
Items 19, 20 and 21 were considered collectively. Chairman MacKay summarized and expressed support for modifications. Alan Waxler, Owner and Brent Carson Esq., were present on behalf of the Applicant. Approved 3-0 with notation of tariff rate changes.
- 20. Docket No. 11-07026** The Application of AWG Ambassador, LLC d/b/a AWG Charter Services for approval of a tariff rate modification for charter limousine services conducted under CPCN 1068, Sub 4. Staff investigation concluded.
Items 19, 20 and 21 were considered collectively. Chairman MacKay summarized and expressed support for modifications. Alan Waxler, Owner and Brent Carson Esq., were present on behalf of the applicant. Approved 3-0 with notation of tariff rate changes.
- 21. Docket No. 11-07028** The Application of AWG Ambassador, LLC d/b/a Ambassador Limousine for approval of a tariff rate modification for charter limousine services conducted under CPCN 1041, Sub 4. Staff investigation concluded.
Items 19, 20 and 21 were considered collectively. Chairman MacKay summarized and expressed support for modifications. Alan Waxler, Owner and Brent Carson Esq., were present on behalf of the applicant. Approved 3-0 with notation of tariff rate changes.

- 22. Docket No. 11-08004** The Application of Omni Limousine, Inc. for approval of a tariff rate modification for airport transfer and special services anticipated to be conducted under CPCN 2076, Sub 2. Staff investigation concluded.
Applicant requested the item be tabled until October general session.
- 23. Docket No. 11-08009** The Application of Open Top Sightseeing Las Vegas, LLC for approval of a tariff rate modification for charter limousine services conducted under CPCN 2004, Sub 9. Staff investigation concluded.
Kimberly Maxson-Rushton, Esq. was present on behalf of the Applicant. Chairman MacKay summarized the Application and noted staff support. Approved 3-0.
- 24. Docket No. 11-08018-A** The Application of City Towing, Inc. d/b/a Quality Towing for approval of a tariff rate modification for tow car services conducted under CPCN 3069, Sub 3. Staff investigation concluded.
Items 18, 24 and 25 were considered collectively. See Item 18.
- 25. Docket No. 11-08019-A** The Application of Ewing Bros., Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 3269. Staff investigation concluded.
Items 18, 24 and 25 were considered collectively. See Item 18.

PETITIONS TO DEVIATE FROM REGULATIONS

- 26. Docket No. 11-08007** Pursuant to NAC 706.1305, Yellow Cab of Reno, Inc. (CPCN 1014, Sub 2) requests deviation from NAC 706.345 (2) and (3) for an additional six-month extension on the retirement dates of seven (7) taxi cab vehicles. Staff investigation concluded.
Michelle Bumgarner, Esq. appeared on behalf of the Applicant. Chairman MacKay expressed concern that six new taxicabs were purchased yet only five of the previously extended taxicabs were retired based on the new purchases. Commissioner Metz noted that the purchases were made after the recent legislative action. Approved 3-0
- 27. Docket No. 11-09001** Pursuant to NAC 706.1305, Open Top Sightseeing Las Vegas, LLC (CPCN 2004) requests deviation from NAC 706.228. Specifically, the Petitioner seeks approval to actively solicit pedestrians along the Las Vegas Strip.
Kimberly Maxson-Rushton, Esq. summarized the Request. Neal Tomlinson, Esq. was present on behalf of Protestants LVL and ALC and argued that there is no compelling reason to allow deviation; that solicitation is detrimental to industry; that it would be bad public policy to sanction such activity; and that granting the Request would be a "slippery slope," in that all carriers would like to solicit in the manner sought by Petitioner. Lt. John Farrell of Las Vegas Metro requested that the NTA contact the Commander for the Strip area to assure the safety of the tourists as it relates to handbillers. Kimberly Maxson-Rushton agreed that the Applicant would work with Metro to assure any kiosks and operations would be acceptable for public safety. A brief discussion ensued. Petitioner withdrew its Petition prior to consideration by the Authority.

FORMAL WRITTEN COMPLAINT

- 28. Docket No. 11-08025** The formal written complaint of Daniel R. Tippet against Titan Towing. Pursuant to NAC 706.3977, the Staff of the Authority cannot resolve the formal written complaint and has therefore transmitted the complaint to the Authority for review. If the Authority finds no probable cause exists for the formal written complaint, it will order the complaint dismissed pursuant to NAC

706.3978. If the Authority finds probable cause exists for the formal written complaint, it will set a date for a public hearing on the complaint and/or order appropriate interim relief pursuant to NAC 706.3979. *Chairman MacKay summarized the formal written complaint. Administrative Attorney Day indicated Mr. Tippetts resides in Dallas, TX and had not made arrangements to appear by telephone. The Authority found that no probable cause exists for the complaint. Dismissed 3-0.*

PETITION FOR RECONSIDERATION

- 29. Citation 15443** issued to Abderrahim Khelifa for violations of NRS 706.386 and NRS 706.758. Respondent's Petition for Reconsideration of the remedies set forth in the Authority's July 13, 2011 Final Order. The Respondent requests that the telephone number appearing in the unlawful advertisement not be ordered disconnected due to evidence not previously presented, specifically that the telephone number is registered to his wife and that the telephone number is used in conjunction with an ongoing lawful business. (MJK)

Mr. Khelifa was present and stated that the telephone belongs to his wife; that he also uses it in his business as a French translator and tour guide; that he did not think to raise these issues at his hearing, and that his work out of state prevented him from filing sooner for reconsideration. Commissioner Kloberdanz stated that the Respondent failed to raise these issues at the June 8 hearing, at the July 14 General Session, or at any other time prior to the deadline for the filing of a Petition for Reconsideration. Petition denied 3-0.

DISCUSSION ITEMS

- 30.** During the Authority's recent tow tariff workshops, the following question arose, requiring discussion by the full authority and the potential issuance of an advisory opinion pursuant to NAC 706.4007: Under what circumstances, if any, may a tow requested by a law enforcement officer be considered a consent tow, such as in the instance where the officer calls for the tow as a courtesy to a driver?

By a vote of 3-0, the Authority concluded that the issuance of an advisory opinion is unnecessary in this matter.

- 31.** During the Authority's recent tow tariff workshops, the following question arose, requiring discussion by the full authority and the potential issuance of an advisory opinion pursuant to NAC 706.4007: Is it improper for a local government entity such as the Las Vegas Metropolitan Police Department to dictate rates and conditions for tow services in a Request for Proposals, Invitation for Bids, or similar contracting proposal, particularly where such rates and terms may differ from or conflict with those approved by the Authority?

Senior Deputy Attorney General Newton stated independent parties contracted have the ability to propose contract rates for NTA approval. By a vote of 3-0, the Authority concluded that the issuance of an advisory opinion is unnecessary in this matter.

- 32.** During the Authority's recent tow tariff workshops, the following question arose, requiring discussion by the full authority and the potential issuance of an advisory opinion pursuant to NAC 706.4007: May a tow carrier charge a set out fee if setting out the vehicle is not required due to inoperability or safety concerns, but rather the setting out of the vehicle is prompted merely by the request of the vehicle owner?

By a vote of 3-0, the Authority concluded that the issuance of an advisory opinion is unnecessary in this matter.

- 33.** During the Authority's recent general session, the following question arose, requiring discussion by the full authority and the potential issuance of an advisory opinion pursuant to NAC 706.4007: May a carrier in its tariff include rates for services and/or types of equipment that the carrier does not in fact provide?

Senior Deputy Attorney General Newton summarized. He referenced NAC 706.1384 regarding revision of tariffs, NAC 706.408 regarding permissible rates, and the use of brokered equipment. A discussion ensued as to the intent of the regulations governing published rates and services provided by certificated carriers. By a vote of 3-0, the Authority concluded that an advisory opinion would be prepared for approval at a subsequent General Session.

APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE CHARTER BUS SERVICE

- 34. Docket No. 11-03029** Request for sixty (60) day extension of the temporary discontinuance from April 1, 2011 through September 30, 2011 of services provided by Luxury Vegas Transportation, Inc. d/b/a Luxury Vegas under CPCN 2104, Sub 1. Staff investigation concluded.

Owner Wil Mares was present on behalf of the Applicant. Mr. Mares stated that the Applicant is pursuing a sale and transfer of the operation. Approved 3-0 until Nov. 30, 2011.

APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE TOW CAR SERVICE

- 35. Docket No. 11-04014** The Application of Larry's Hauling and Towing, LLC for a CPCN to provide tow car service by tow car vehicle within the State of Nevada. Staff investigation concluded.

Applications Manager Liz Babcock noted that the Applicant will be operating in West Wendover, Nevada. Approved 3-0.

- 36. Docket No. 11-05007** The Application of Hook-Up Towing Services, LLC for a CPCN to provide tow car service by tow car vehicle within the State of Nevada. Staff investigation concluded.

Applications Manager Liz Babcock noted that the Applicant will be operating out of North Las Vegas. Approved 3-0.

VOLUNTARY CANCELLATION

- 37. Docket No. 11-08020** The voluntary cancellation by Squaw Creek Transportation, Inc. d/b/a SQUAW CREEK TRANSPORTATION of CPCN 2036. Staff investigation concluded.

Approved 3-0.

ADMINISTRATIVE CITATIONS AND IMPOUNDMENTS

Items 38 through 41, 44 through 49, and 51 through 54 were considered collectively. Approved 3-0.

- 38. Impound 1894 and Citation 15510** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15510 issued to Ricardo Avila for violations of NRS 706.386 and NRS 706.758. (MJK)

- 39. Impound 1887 and Citation 15579** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15579 issued to Joseph Brandes for violations of NRS 706.386 and NRS 706.758. (MJK)

- 40. Impounds 1763 and 1893 and Citation 15580** The impoundment pursuant to NRS 706.476 of vehicles registered to and Citation 15580 issued to Jose Vargas-Corral for violations of NRS 706.386 and NRS 706.758. (MJK)
- 41. Citation 14475** issued to Bruce J. Taylor for a violation of NRS 706.758. (MBM)
- 42. Citation 15462** issued to Rufus Daniels for violations of NRS 706.386 and NRS 706.758. (MBM)(MJK)
Mr. Rufus Daniels was present and argued that he should be able to retain his telephone number and expressed his desire to appeal the results of his hearings. Commissioner Klobardanz summarized the original hearing and Commissioner Metz summarized the limited rehearing. Mr. Daniels requested that the Order to disconnect the telephone be stayed until he can pursue his appeal in the courts. The proposed Order was approved by a vote of 3-0
- 43. Citation 15466** issued to Rommel Salas for a violation of NAC 706.228(5) as amended by LCB File No. R127-07. (MBM)
This item was removed from the Agenda prior to consideration.
- 44. Citation 15581** issued to Luis Martinez-Murua for violations of NRS 706.386 and NRS 706.758. (MBM)
- 45. Impound 1895** The impoundment pursuant to NRS 706.476 of a vehicle registered to Hertz Vehicles, LLC. (MBM)
- 46. Impound 1897** The impoundment pursuant to NRS 706.476 of a vehicle registered to Gerardo Rivera-Reyes. (MBM)
- 47. Citation 14176** issued to Lance Kennedy Santos for a violation of NAC 706.247/49 CFR 391.41.
- 48. Citation 14348** issued to City View Towing for a violation of NAC 706.191.
- 49. Citation 15382** issued to U-Haul Co. of Nevada, Inc. for violations of NRS 706.167 and NRS 706.398.
- 50. Citations 15453, 15454, 15455, 15456, 15457, 15458, 15459, 15460, 15461, 15462 and 15463** issued to Tow Guys, Inc. for violations of NAC 706 and NRS 706. (MBM)
Complainant Neal Gilfillen was present and urged that the Respondent face far stiffer penalties for the violations. Mr. Gilfillen also stated that the Agreement does not address damages to vehicles or storage fees. Chairman MacKay reported that he would abstain from voting on the matter because he had previously authorized a risk-based operational inspection of the carrier based upon the events that led to the citations. Senior Deputy Attorney General Newton reported that storage fees would be included in the refunds required by the Respondent. Approved 2-0, with Chairman MacKay abstaining.
- 51. Citation 15483** issued to Bashir Hussein Daahir for a violation of NAC 706.228(3).
- 52. Citation 15504** issued to Ronald Sande for a violation of NAC 706 as amended by LCB File No. R127-07(5).
- 53. Citation 15511** issued to Douglas Atherden Thompson for violations of NRS 706.386 and NRS 706.758.

54. Citation 15553 issued to ASP, Inc. for violations of NRS 706.167 and NRS 706.398.

55. Public Comment:

None.

56. Adjournment

Chairman MacKay adjourned the General Session at approximately 1:40 p.m.